IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 34 OF 2006

IN

SECOND APPEAL NO. 18 OF 2006

SHRI XAVIER TRAVASSO AND ANR., ...Applicants

Versus

SMT. RADHABAI KRISHNA LATAO(SIN.DEC.) BY HER HEIRS ....Respondent

Shri S.D. Lotlikar, Sr. Advocate with Shri M. D'Souza, Advocates for the Applicants.
Shri P.A. Kamat, Advocate for legal heirs of Respondent no.1 and for Responents No. 2 to 11.

Coram:- P.V. KAKADE, J.

Date:- 8th November, 2006

P.C.:

Heard both the parties.

This is an application for stay of the decree of the lower Court against the present applicants. The application is mainly challenged on the ground that the present respondent had prayed for mesne profit of Rs. 5,000/- per annum from the year 1991 with interest thereon. However, it appears from the record that there was no evidence and for that purpose, the plea of the respondent came to be rejected by the lower Court. Now, when admittedly, there was no evidence in that regard, at this stage we are not in a position to determine if there was any existence of income from the property and, therefore, mesne profit cannot be determined at this stage.

Appeal is already admitted. In view of this position, application is

made absolute in terms of praye clause 4(i) and stands disposed of with no order as to costs.

P.V. KAKADE, J.

NH